



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Geoffrey S. Ratte
Serial No.: 09/638,743
Filed: 8/14/2000
For: FISHING LINE CLAMP

Attorney file: 5458
Examiner: Rowan, Kurt C.
Group: 3643

15
Reply
Brief
(3)
Bates
6/14

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

RECEIVED JUN 03 2003
GROUP 3600

APPLICANT'S REPLY
TO EXAMINER'S ANSWER

Honorable Commissioner for Patents
Alexandria, VA 22313-1450

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Sir:

RESPONSE TO EXAMINER'S ANSWER

Applicant has received and reviewed the Examiner's answer dated May 6, 2003 wherein the Examiner responded to the applicant's appeal brief by raising new issues to further support the Examiner's previous rejections of applicant's claims 1, 3-4, and 6-11 under 35 U.S.C. 103 as being unpatentable over the reference of Wymore and claim 5 under 35 U.S.C. 103 as being unpatentable over the reference of Wymore in view of the reference of Crumrine.

L. The Examiner's statement regarding the obviousness to combine the sinker of Fig. 4 and the sinker of Figs. 1-3, 5 of the reference of Wymore for the purpose of keeping the sinker weedless is not relevant to Applicant's claimed invention.

On page 3, lines 19-22 and page 4, line 1 of the Examiner's Answer, the Examiner stated that:

"One skilled in the art would have found it obvious to combine the two sinkers since for example under some types of fishing conditions, one would desire the shape of the bass fishing sinker as shown in Fig. 4 but would also want the sinker clamped on the fishing line such as in the split shot sinker as shown in Figs. 1-3, 5 for the purpose of keeping the sinker weedless. The sinker of Fig. 4 has a more streamlined shape and hence would tend to be more 'weedless'". (Emphasis added.)

The applicant respectfully disagrees with the Examiner's above statement on the obviousness to combine the two sinkers for the purpose of keeping the sinker weedless. It is submitted that "the purpose of keeping the sinker weedless" is not relevant to the claimed invention.

Please note that neither the applicant's claims or the applicant's specification mentions a weedless sinker or the keeping of the applicant's sinker weedless. Further more, neither the reference of Crumrine or the reference of Wymore teach that their sinkers are weedless.

It is for the above reasons that the applicant submits that the Examiner's statement regarding the obviousness to combine Wymore's bass fishing sinker as shown in Fig. 4 with Wymore's split shot sinker as shown in Figs. 1-3, 5 for the purpose of keeping the sinker weedless in the Examiner's rejection of the applicant's claims is not relevant and not supported by the Wymore or Crumrine patents. In view of the aforementioned, applicant respectfully request that Examiner's rejection of the claim under 35 U.S.C. 103 be reversed.

II. The Examiner's statements regarding the obvious use of alloys of bismuth due to alloys of bismuth having the same advantage and function as bismuth is overly broad and not relevant to the applicant's claimed invention.

On page 4, lines 11-15 of the Examiner's Answer, the Examiner held that:

"As to Crumrine not showing an alloy of bismuth, Crumrine discloses a variety of materials such as bismuth, lead, steel, tin etc. Hence, since the selection of a known material is based on its suitability for the intended use, one skilled in the art would have found it obvious to employ not only bismuth, but alloys of bismuth since the function is the same and the alloys of bismuth have the same advantage as bismuth which is being nontoxic." (Emphasis added.)

The applicant disagrees with the Examiner's above statement. In regards to the Examiner's comments that "the function is the same" for bismuth and alloys of bismuth, the applicant submits that the Examiner's aforementioned contention is unsupported. Note for example that *The Condensed Chemical Dictionary* states: "The properties of alloys are often greatly different from those of the component metals." (Emphasis added.) See *The Condensed Chemical Dictionary*, 8TH Edition, page 30, by Van Nostrand Reinhold Company, New York. (A copy of the cited page is enclosed.) The Applicant submits that the Examiner's position is in error. Since the properties of alloys can be greatly different from those of the component metals, and the functions of alloys of bismuth may greatly differ from the functions of bismuth in an unalloyed state.

The applicant also respectfully disagrees with the Examiner's above statement regarding the obvious use of alloys of bismuth due to their advantage of being nontoxic. Applicant again submits that the Examiner's contention is in error. Although unalloyed bismuth may be

nontoxic, the toxicity of alloys of bismuth is also dependent on the secondary component and the amount of the secondary component that is alloyed with the bismuth. For example, please note that bismuth alloyed with a toxic component may result in a toxic bismuth alloy.

Notwithstanding the issue of whether unalloyed bismuth is toxic or non-toxic, it is submitted that toxicity of an alloy of bismuth is not relevant to the claimed invention. Neither the applicant's claims or the applicant's specification mentions the issue of toxicity of bismuth or a bismuth alloy.

It is for the above reasons that the applicant submits that the Examiner's contention regarding the obvious use of alloys of bismuth due to alloys of bismuth having the same advantage and function as bismuth is unsupported and not relevant to the applicant's claimed invention.

III. Conclusion

In conclusion, the applicant submits that the Examiner's contention regarding the obviousness to combine Wymore's bass fishing sinker as shown in Fig. 4 with Wymore's split shot sinker as shown in Figs. 1-3, 5 for the purpose of keeping the sinker weedless in rejecting the applicant's claims is not relevant since weedlessness is not a feature of the claimed invention. Applicant also submits that the Examiner's contention regarding the obvious use of alloys of bismuth due to alloys of bismuth having the same advantage and function as bismuth is unsupported and also that the toxicity of an alloy of bismuth is not relevant to the applicant's invention since toxicity levels of bismuth is not a feature of the claimed invention.

In regards to the Examiner's other comments in the Examiner's Answer, please note that the Applicant has not responded to such comments as they were previously addressed in the Applicant Appeal brief.

It is for the above reasons and the reasons laid out in the Applicant Appeal brief that the applicant submits that applicant's claims 1, 3-4, and 6-11 are allowable over the reference of Wymore and that claim 5 is allowable over the reference of Wymore in view of the reference of Crumrine.

In summary, it is submitted that the Examiner has erred in rejecting applicant's claims 1 and 3-11 under 35 U.S.C. 103. Accordingly, it is respectfully requested that the decision of the Examiner be reversed and that the applicant's claims 1 and 3-11 for the above-identified application be allowed.

Respectfully submitted,
JACOBSON AND JOHNSON

By



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COVER LETTER FOR APPLICANT'S
RESPONSE TO EXAMINER'S ANSWER

Sir:

The enclosed Response to the Examiner's Answer, three (3) copies, is being sent by Express Mail No. **ER 113241626 US**. Under the provisions of 1.10 and 1.53, the applicant request the application be given the filing date of May 27, 2003. Please charge any deficiencies in fees to deposit account 10-0210.

Applicant's attorney, Carl L. Johnson, certifies that the response to the Examiner's answer is being deposited with the United States Postal Service by Express Mail **ER 113241626 US** in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 27, 2003.

May 27, 2003

Date

Carl L. Johnson

Yours very truly,

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Enclosure